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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/786,260	02/25/2004	Susan S. Matlof	75723/001	2695
29493	7590	11/22/2005		
HUSCH & EPPENBERGER, LLC			EXAMINER	
190 CARONDELET PLAZA			LAYNO, BENJAMIN	
SUITE 600				
ST. LOUIS, MO 63105-3441			ART UNIT	PAPER NUMBER
			3711	

DATE MAILED: 11/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

TLM

Office Action Summary	Application No.	Applicant(s)	
	10/786,260	MATLOF, SUSAN S.	
	Examiner	Art Unit	
	Benjamin H. Layno	3711	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 01 September 2005.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 15-18 is/are pending in the application.
 - 4a) Of the above claim(s) 1-14 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 15-18 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION

1. This application contains claims 1-14 drawn to an invention nonelected with traverse in Paper dated 05/09/05. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

2. Applicant's arguments filed 09/01/05 have been fully considered but they are not persuasive. The rejections follow.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
4. Claims 15-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over "What's My Name" in view of Rowley.

The game "What's My Name", in the publication "1000 Family Games", discloses method for playing a socializing game. The game includes small slips of paper each displaying factual information (name) of a specific person (famous man or woman). To play the game the slips of paper are distributed to each participant as they enter the room. The slips of paper are pinned to the back of each of the participants as they enter the room. Thus, these slips of paper are considered identification badges. The

participants are not told the names marked on the identification badges on their backs.

The participants converse with one another whereby the participants help one another determine the identity of the famous person described on their identification badges.

The participants try to gather enough information about the famous person described on their identification badges, and make a final declaration of the identity of the famous person on their identification badges. After a participant correctly identifies the famous person's name on his/her identification badge, the participant may continue playing answering questions of other participants until all participants correctly identify the famous person on their identification badges.

The only features recited in the claims that "What's My Name" lacks are "the back side of each of said identification badges having a unique checking marker corresponding to an identical checking marker located on a master list" and "awarding prizes to those contestants who correctly guessed the identity of the famous person on their identification badges".

It would have been obvious to a person having ordinary skill in the art to provide an award to the participants who correctly guessed the identity of the famous person on their identification badges in "What's My Name" game. This modification would have made the game more enjoyable to play.

The patent to Rowley disclose a identification tag system comprising name tags 56 having identification indicia 60, 68 relating to information about the person (e.g. name, address, etc.) and a unique checking marker 58, in the form of a number, Figs. 6 and 8-10. The checking marker corresponds to an identical checking marker located on

a master list 64, Fig. 7. In view of such teaching, it would have been obvious to incorporate a checking marker to the identification badges of "What's My Name". The checking marker would have either been on the front side or back side of the identification badges. A master list having all the checking markers would have also been provided in order to accurately keep track of all the participants that attended, and to determine which participants were able to correctly guess the famous person's name on their identification badges.

Response to Arguments

5. In response to applicant's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

6. In response to applicant's argument that Rowley is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, the Examiner maintains that the slips of paper pinned to the back of each of the participants

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are broadly identification badges. Thus, identification badges, such as Rowley, are in the field of the Applicant's endeavor.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benjamin H. Layno whose telephone number is (571) 272-4424. The examiner can normally be reached on Monday-Friday, 1st Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eugene Kim can be reached on (571)272-4463. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Benjamin H. Layne
Primary Examiner
Art Unit 3711

bhl